

REMARKS

In response to the Examiner's Office Action of October 20, 2004, Applicants have now amended the claims to particularize the client-server means of - specialized client-server means utilizing a Unisys ClearPath client-server.

This is done since the Examiner had indicated that the relationship of interconnecting modules was not stated and that Applicants did not specify the Unisys ClearPath server.

A. The Examiner has rejected claims 1-3, 7-9, 11 and 12, under 35 USC 102(b) as being anticipated by the Seitz Reference "A", U.S. Patent 5,805,823. Additionally, while Examiner has not cited Applicants' Information Disclosure Statement which provided the KNAS (Kerberos Network Authentication Service), however, Examiner has still cited aspects of this document. Applicants would now reiterate their previously provided arguments.

At this point, Applicants would traverse Examiner's contention that the Seitz patent, 5,805,823, anticipates Applicants' invention.

As seen in Examiner's paragraph 1 on page 4 of his Office Action, the Examiner has cited a series of items --- "a", "b", "c", "d". . ."g", "h", "i", "j", "k".

Here, Examiner has selected various bits and pieces of Applicants' claims and the Examiner has cited and pulled-up a variety of other elements from the Kerberos Network Authentication Service, in addition to certain aspects of the Seitz reference. Thus, the Examiner is trying to re-create Applicants' invention as stated in

these claims by picking and choosing bits and pieces from other references.

In a case reported in the Bureau of National Affairs Patent, Trademark & Copyright Journal, on page 109 of the issue dated December 10, 1992, the case of Price v. Code Alarm, Inc., which was decided on November 5, 1992, by the United States District Court of the Northern District of California --- here, it was indicated that combination claims are not invalid for obviousness merely because similar elements appear in separate prior art references. The court stated that one may not pick and choose among the individual elements of prior art references in order to re-create the basis of the invention. Further, the court declared:

A holding that combination claims are invalid based merely on finding similar elements in separate prior art patents would be "contrary to statute and could defeat the congressional purpose in enacting Title 35" . . . not only must the claimed combination be considered as a whole under the express mandate of USC 103, but the prior art references must also be considered in their entireties to determine whether they suggest the desirability of making the combination which Code-Alarm asserts renders claims 7 and 8 obvious. (underlines added).

However, while the above reference was applied to Article 103(a) obviousness situations, the similar situation will occur as indicated by the following reference regarding anticipation under Article 102.

In the case of Kalman v. Kimberly-Clark Corporation, 713 F.2d 760, 218 USPQ 781, 789 decided by the Federal Circuit in 1983, the following was indicated by the Court:

A party asserting that a patent claim is anticipated under 35 USC Article 102, must demonstrate among other things, identity of invention. Identity of invention is a question of fact, and one who seeks such a finding must show that each element of the claim in issue is found, either expressly described or under principles of inherency in a single prior-art reference, or that the claimed invention was previously known or embodied in a single prior-art device or practice. Preliminary to this determination, is construction of the claims to determine their meaning in light of the specification and prosecution history which construction is a matter of law for the Court. (underlines added).

In order to indicate that there is a relationship between anticipation and obviousness, Applicants would now cite the case of Jones v. Hardy, 220 USPQ 1021, 1025, decided by the Federal Circuit in 1984 where it was stated:

Though anticipation is the epitome of obviousness, they are separate and distinct concepts.

Then, further, Applicants would recite the case of Mendenhall v. Aztec Industries, Incorporated, 13 USPQ 2d 1913, 1928, decided in Tennessee in 1988, and affirmed by the Federal Circuit in 1989 at 13 USPQ 2d, p. 1956. The conclusion here was as follows:

When a claimed invention is not identically disclosed in a reference, and instead requires picking and choosing among a number of different options disclosed by the reference, then the reference does not anticipate.

Then, in the case of Minnesota Mining and Manufacturing Company v. Johnson & Johnson Orthopaedics, Incorporated, decided by the Federal Circuit in 1992, and reported at 24 USPQ 2d pp. 1321, 1326, the following was stated:

A party asserting that a patent claim is anticipated under 35 USC Article 102 "must demonstrate . . . identity of invention".

Of course, in the above situation, there is no way that the Examiner can demonstrate any complete identity of invention as will be explicitly discussed and described in succeeding remarks herein.

To reiterate Kalman v. Kimberly-Clark, 218 USPQ 781, the Federal Circuit indicated that --- the claimed invention must have been in a single prior art reference to constitute "anticipation".

Then, as a further note, in the case of Ultradent Products, Incorporated v. Life-Like Cosmetics, Incorporated, reported at 39 USPQ 2d, 1969 at p.1980, decided in Utah in 1996, the following would clearly indicate the situation as follows:

Any degree of physical difference, however slight, invalidates claims of anticipation.

B. Now, to cite some of the clauses involved when looking at claims 1-3, 7-9, 11 and 12, and the various cited elements "a", "b", "c" . . . "h", "i", "j", "k", --- at Examiner's element "b" regarding asynchronous authentication, where the Examiner cited the Seitz reference, column 19, line 23, et seq. Here, it should be noted that the only mention by Seitz is that an authentication protocol may be used, for example, Kerberos, DSA RSA, and the like.

But note here, Seitz has no implementation or concept of implementation as is shown and indicated in Applicants' Figs. 15, 16, 17. There is no way that this statement of Seitz can be stretched or taught to teach Applicants' system. Further, there is nothing in the Kerberos Network Authentication Service which teaches or shows the elements involved in Applicants' Figs. 15, 16 and 17, and the description thereof.

The Examiner has cited several items, such as items "e", "g", "h", "i", "j", "k", to refer to terminology in the document of the Kerberos Network Authentication Service. These statements here do not in any fashion describe or teach the methodology and the inter-cooperating modules which are shown in Applicants' Figs. 15, 16 and 17. There is no way that the statements of Seitz and any statements made in the Kerberos Network Authentication Service document could show, teach or indicate the specific arrangements and functional operations of Applicants' Figs. 15, 16 and 17.

Seitz operates message transmission from (a) client to (d) server back to (a) client. Quite differently, Applicant operates from (a) client to (b) specialized ClearPath to (c) Kerberos Server, then back to (a) client, that is, i.e., a-b-c-a.

C. It will be of considerable benefit to look at the Seitz patent and compare it to the operations of Applicants' invention in order to see the considerable differences involved, so that any question of anticipation would be immediately obviated.

C1. It should be indicated that the Seitz reference in essence, works to "handle messages" (transfer data asynchronously) between Applications in the client-server network.

Quite differently, Applicants' system involves the handling of messages (data transfer asynchronously) between an application and a server in a client-server network. Note that this involves a considerable difference in the function and architectural arrangements involved.

Applicants' system is specific to data transfer between the client (and/or clients) to a server which involves

a specialized Unisys ClearPath server operating within the Kerberos Realm, and this data transfer is done via an intermediary server designated as a Kerberos Server.

There is no such teaching in the Seitz reference, nor can Seitz be combined with the KNAS document to design or provide such a system.

C2. It will be seen that Seitz operates at a high level asynchronous message handling between clients. (a-d-a) i.e., client (a) to server (d) to client (a).

Note, that Applicants are involved and directed to "client authentication" in a Kerberos Realm using an asynchronous data exchange between a client (clients) and a series of servers (a-b-c-a).

Re Applicants' Fig. 16, client (a) - special Unisys Server (b) - Kerberos server (c) - client (a).

The differentiation between Seitz and Applicants' system is that applications in Seitz are run in "an application environment on a server".

Applicants' system focuses to the data handling between an application (applications) running in the application environment and involves a service provided at the "operating systems level" environment.

Seitz in no way speaks to message or data handling between the "application level environment", over to the "server level environment". The server environment is a

pass-thru for holding or sending on messages. Applicants' system speaks to the managing of data sent from a client (clients) to the server with a return of the proper authentication signal.

C3. The thrust of Applicants' system is not so much about asynchronous message handling, but rather involves the "authentication" of a client in a Kerberos Realm via an asynchronous data exchange protocol. Applicants' system provides a unique arrangement in that there is a client and an exchange -- there is an exchange from client to a first server, then to second server, as will be seen in Applicants' figs. 15, 16 and 17.

It should be noted that the Seitz relation is from "client to server to client", where the so-called "messages" in Seitz are directed from client to client via a message handler on a server.

C4. The Seitz reference may be designated as "generic message exchange". Quite differently, Applicants' system is a specific set of data streams (as defined in Kerberos) that are initiated by a client, that is to say, a specific client application, such as a terminal emulator that "speaks" a specific protocol.

This is unique to Kerberos, where data is sent to a server, that is to say, a Kerberos Server, which performs certain actions on that server related to user "authentication". This Kerberos Server, after performing various authentication routines and activities, then forwards data to a Unisys ClearPath Server with a specific server-level software, (also

known as the Operating System Software) which then takes the data received and then either "authenticates or rejects" the client data. The generated data from the Unisys ClearPath Server is then passed back to the Kerberos Server and then to the client for further action based on the type of response generated.

Again, this data is passed via an asynchronous data-handling protocol. The various modules involved and the functional steps involved are shown in Applicants' Figs. 15, 16 and 17 in abbreviated form.

C5. Applicants' asynchronous data handling protocol is unique to that particular environment because of the aforementioned data/message path which involves: (a) client-server; (b) specialized ClearPath server; and (c) Kerberos server. Quite differently, the Seitz reference is merely: (a) client; (d) server; (a) client. The Applicants' sequence (a),(b),(c),(a) is quite different from Seitz' (a),(d),(a).

The big difference here must be stressed, since the servers in Applicants' system are not running applications merely to handle this data exchange. The servers in Applicants' system provide services in the operational system environment.

It will be seen that Seitz claims a client--server--client message handling system, but in looking at the detail of the Seitz reference, the so-called "server" in Seitz is actually running an application in the "application environment" in order to process a message exchange between two client applications.

Referring to Seitz column 4, line 29 ---
"The server application 110 maintains a list
120" Thus, Seitz is utilizing an
application for message exchange, but quite
differently, Applicants' system operates
using a data exchange through a server
service provided at the Operating System
level and not at the application level.

C6. It should be noted that since Seitz is handling the message exchange using an application, while Applicants' system is using a server service for data exchange, then Applicants' method, will by its nature, be much more efficient and operate under an algorithm which is much more reliable.

Seitz' application on the server requires server services. But Applicants' method is providing the service without going through an additional "layer" of additional application. It is noted that the more layers involved, the less efficient is the system, and the more layers involved there is a slower factor in the response time.

C7. Taking a more general look at the Seitz reference, it would appear that Seitz is speaking to the idea of a generic message handling in a "traditional" client/server network. Quite differently, Applicants' system and method (of Fig. 17) has a specific protocol related to a Kerberos environment where data is passed from: (a) client (terminal emulator), to (b) a Kerberos Server (KDC), to (c) a Unisys ClearPath Server. The relationship here is (a), (b), (c).

Both Seitz and Applicants are also "handling" asynchronous messages, but they are being handled in a different environment. Seitz is handling generic messages, while Applicants are focused on "authentication" in a Kerberos Realm, which is one of the activities associated with the asynchronous data handling, but in quite a different environment from that of Seitz.

C8. Regarding the KNAS inferences cited by Examiner, Applicants are in no way attempting to claim the origination of the so-called authentication algorithms developed in the Rfc 1510 of KNAS.

On the other hand, Applicants' system and method uses a number of "services" supplied by Kerberos and/or within a Kerberos Domain.

What makes Applicants' system unique is that the Unisys ClearPath Server which is participating in the Kerberos Realm must also authenticate a client within its domain, and these services reside on the Unisys ClearPath Server.

All participants within the Kerberos Realm follow a Kerberos authentication protocol. Applicants' system sets forth that type of "authentication" within the Kerberos Realm to operate between the Kerberos Server and the Unisys ClearPath Server, which is a one-to-one Server-to-Server protocol, which is a unique arrangement.

That the client application (Terminal Emulator) request for authentication, must first be authenticated by the

Kerberos Server, and then in turn, handled by the Unisys ClearPath Server, is not considered or shown by the Rfc 1510 of KNAS.

There is no discussion in Rfc 1510, as to the data handling between participants in the Kerberos Realm and that is why Applicants' method of asynchronously handling of data between client to Kerberos Server, to Unisys ClearPath Server, is a unique arrangement. Neither Seitz nor Rfc 1510 speak to data handling in an asynchronous fashion from client--to specialized server--to Kerberos server, back to the client. This is: (a),(b),(c),(a) in sequence. The only aspect of Rfc 1510 (within the Kerberos Realm) is that which speaks only of "client to server to client", (a),(d),(a) authentication. But note in Applicants' method, Applicant requires "additional authentication" by the Unisys ClearPath Server and has the associated asynchronous data handling to achieve said authentication.

D. Examiner has further rejected claims 4-6, 10 and 13-15 under 35 USC 103(a) obviousness as unpatentable over the Seitz reference, further in view of the Schanze, U.S. Patent 6,003,136.

Contrary to Examiner's statement, the Seitz references does not teach the use of asynchronous authentication of multiple concurrent clients in a Kerberos environment to maximize network efficiency. Further, Seitz does not teach or show the implementation of Applicants' Master Control Program, General Security Service Library, or the Kerberos Support Library.

Regarding claims 4-6 and 13-15, wherein Examiner has rejected these under 103(a) as "obvious" over Seitz in view of

Schanze, U.S. Patent 6,003,136. Again, Applicants would traverse such a conclusion by the Examiner.

Examiner has stated that --- one of ordinary skill would be "motivated" to incorporate the program means (in the cited Schanze U.S. Patent 6,003,136) since `136 "suggests"(?) that the overhead associated with Kerberos systems may be "obviated" though use of programs that allow continuous processing - the Examiner citing Schanze `136 at: (i) column 2, lines 35-45 and (ii) column 3, lines 10-35.

A look at item (i) in column 2 only states that each computer in a network must run Kerberos software and Kerberos grants a ticket which is honored by network computers.

A look at item (ii) in column 3 discussed the problem of an inordinate period of time that a client or server is required to wait after requesting a response to a Kerberos command.

Thus, `136 has no valid "suggestion" as to how overhead can be obviated.

Also here, Schanze `136 states that his mechanism ---- permits the requesting client or server's programs to continue to handle requests while the Kerberos server generates a response.

These so-called "suggestions" do not teach the implementation which is shown in Applicants' claims and in Figs. 15, 16 and 17. Also, there is nothing in Seitz which states or indicates that Schanze `136 could be added to or combined with Seitz to configure it to form Applicants' system. Here, the Examiner is using hindsight to develop Applicants' invention with no warrant for combining them.

E. Examiner, at page 6 of his Office Action of November 17, 2003, paragraph 2, had stated as to claims 4-6, 10 and 13-15 of Applicants' claims, that there are a number of items designated "a", "b", "c", . . . "o", "p", "q", "r", which Examiner has selected from bits and pieces of the Seitz reference and from the document on Kerberos Network Authentication Service, and from the mentioned earlier reference of Schanze 6,003,136.

Here again, we see that the Examiner has been taking bits and pieces from various reference elements and then trying to patch them together to re-create Applicants' invention.

Here, Applicants would cite the case of Appeal No. 2001-1102 in the United States Patent & Trademark Office, Board of Patent Appeals and Interferences, which was decided on January 16, 2002, where the Board had stated as follows, as indicated at 63 USPQ 2d, p. 1196:

Patent Examiner's rejection of Applicants' claims on grounds of anticipation and obviousness over prior art reference are vacated, since Examiner has made no cogent attempt to read reference into independent claim in application, and therefore has not established that he determined that all limitations of Applicants' claims are explicitly or inherently described by prior art and since Examiner's finding that independent claim is "generically" described by reference is insufficient for obviousness rejection; Examiner's rejection for anticipation based on second prior art

reference is reversed, since that reference does not disclose specific combination of components set out in Applicants' independent claim. Further, Applicants would reiterate the previous reference to the case of Price v. Code Alarm, Inc., decided November 5, 1992 by the U.S. District Court of the Northern District of Illinois, where it was indicated: That combination claims are not invalid for obviousness merely because similar elements appear in separate prior art references. The Court stated that one may not pick and choose among the individual elements of prior art references in order to re-create the basis of the invention. . . . Not only must the claim combination be considered as a whole under the express mandate of USC 103, but the prior art references must also be considered in their entirety to determine whether they suggest the desirability of making the combination(underlines added).

There is no combination of information in the Seitz reference or in the Kerberos Network Authentication Service document which can teach the functionality and the architecture of Applicants' Figs. 15, 16 and 17, which, as was previously stated, involve an operating level relationship between the Client 10, the ClearPath Server 13 and the Kerberos Server 20, which operate on an asynchronous basis to pass authentication data back to the client or clients requesting it.

Again note, that Applicants' system and method involve an asynchronous data exchange from client to ClearPath Server to Kerberos Server, which is completely different than the Seitz operation from client to server back to client.

Applicants' system is providing this service without going through an additional "layer" of application, where it should be noted that the more layers involved, the less efficient is the system and the more layers involved develop a slower response.

Again, it should be reiterated that the concern and focus of Applicants' system is that of "authentication" done with specific modules involving a ClearPath Server and a Kerberos Server which is not taught by, or implemented in any way by the cited reference or the KNAS documents.

As will be noted in Fig. 1 of Seitz, the Server computer 102 operates to interchange messages between client computer 104 having client applications 106 and other client computers 104 having client applications 106. Also, the fact that Seitz "mentions" a Kerberos environment at column 19, line 33 et seq., does not teach the functionality and architecture of Applicants' system.

Further, the fact that Seitz, at column 19 lines 23, et seq. which briefly discusses authentication, does not show or teach or implement any system for authentication as is shown by Applicants' Figs. 15, 16 and 17.

Amendments have been made to the claims in order to correct the lack of specificity as to the Unisys ClearPath server as indicated by the Examiner. Now, with the extant claims shown to be a combination of elements which must be considered as a whole in their entirety, it is now respectfully requested that Examiner look at the claims as a whole in their entirety as an overall functioning system, which in no way can be recreated from the combination of elements from Seitz or KNAS or Schanze.

In this regard it is now respectfully requested that Examiner consider the defined invention as a whole in its entirety and subsequently provide a timely Notice of Allowance for the extant claims.

Respectfully submitted,

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Certificate of Mailing (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date:

January 12, 2005

Patti S. Freddy

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IN THE DRAWINGS:

Formal corrected drawings were supplied with the
Amendment dated February 4, 2004.